

Message Text

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71-62

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA PRIORITY

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E.O. 11652:N/A

TAGS: EWWT, PN

SUBJECT:TRANSPORTATION OF CONTAINERS BETWEEN US PORTS
BY FOREIGN FLAG SHIPS

1. PANAMANIAN-FLAG EVERGREEN LINE HAS RECENTLY BEEN HELD
IN VIOLATION OF CERTAIN CUSTOMS REGULATIONS BY TRANSPORT-
ING EMPTY CONTAINERS IN THEIR FOREIGN FLAG VESSELS
BETWEEN PORTS IN THE U.S.

2. PUBLIC LAW 90-474, APPROVED AUGUST 11, 1968, PROVIDES
FOR AN EXEMPTION TO THE JONES ACT (SECTION 27, MERCHANT
MARINE ACT, 1920) WHICH PROHIBITS THE CARRIAGE OF CARGO
BETWEEN AMERICAN PORTS BY FOREIGN FLAG VESSELS. THE
EXEMPTION WAS EXTENDED TO INCLUDE "EMPTY INSTRUMENTS OF
INTERNATIONAL TRAFFIC."

3. IN ORDER TO PERMIT SHIPS OF ITS FLAG TO QUALIFY FOR
THE EXEMPTIONS AFFORDED BY PL 90-474, A FOREIGN GOVERNMENT
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MUST SUBMIT EVIDENCE THAT IT GIVES RECIPROCAL TREATMENT

TO US FLAG SHIPS SAILING BETWEEN PORTS IN ITS COUNTRY IN ACCORDANCE WITH THE REQUIREMENTS OF THE TREASURY DEPARTMENT. THE TREASURY DEPARTMENT HAS INDICATED THAT IT WILL ACCEPT AS SUCH EVIDENCE A STATEMENT, FURNISHED TO THE SECRETARY OF STATE BY THE GOVERNMENT OF THE INTERESTED FOREIGN

COUNTRY, THAT IT DOES NOT PROHIBIT US FLAG VESSELS FROM TRANSPORTING IN ITS COASTAL TRADE THE ARTICLES REFERRED TO, OR THAT US FLAG VESSELS ARE ACCORDED RECIPROCAL PRIVILEGES IN THE COASTWISE TRADE OF THAT COUNTRY. THE STATEMENT SHOULD CITE THE LAWS OR REGULATIONS WHICH EXTEND THESE PRIVILEGES TO US VESSELS, OR IF THERE ARE NO CABOTAGE LAWS RESERVING COASTWISE TRADE, THE STATEMENT SHOULD REFLECT THE SITUATION. A SAMPLE STATEMENT IS CONTAINED IN PARA. 5 BELOW.

4. TO DATE, APPROXIMATELY 30 NATIONS, NOT INCLUDING PANAMA, HAVE ENTERED INTO THIS RECIPROCAL AGREEMENT WITH THE USG. ON APRIL 6, 1976, ATTORNEYS IN NEW YORK FOR THE PANAMANIAN-REGISTERED EVERGREEN LINE INDICATED THAT THE LINE WAS INTERESTED IN RECEIVING THE EXEMPTION. EVERGREEN HAS BEEN HELD IN VIOLATION OF THE JONES ACT BY US CUSTOMS FOR TRANSPORTING EMPTY CONTAINERS FROM NEW YORK TO CHARLESTON, SOUTH CAROLINA. SINCE EVERGREEN IS CONTEMPLATING A SIMILAR CONTAINER MOVEMENT IN MAY, ONE CAN SENSE THE URGENCY OF EVERGREEN'S REQUEST.

5. ACTION REQUESTED: IF AN EXEMPTION OF THE TYPE NOTED ABOVE IS TO BE CONSIDERED BY THE TREASURY DEPARTMENT, THE GOP MUST EXECUTE AND RETURN TO THE STATE DEPARTMENT THE FOLLOWING STATEMENT:

THE EMBASSY OF (COUNTRY) PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF STATE AND HAS THE HONOR TO REFER TO PUBLIC LAW 90-474 OF AUGUST 11, 1968 AMENDING THE MERCHANT MARINE ACT OF 1920 TO PERMIT VESSELS NOT REGISTERED IN THE UNITED STATES, SUBJECT TO RECIPROCITY, TO TRANSPORT IN THE COASTWISE TRADE OF THE UNITED STATES (A) EMPTY CARGO VANS, EMPTY LIFT VANS, AND EMPTY SHIPPING TANKS, (B) EQUIPMENT FOR USE WITH CARGO VANS, LIFT UNCLASSIFIED

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VANS, OR SHIPPING TANKS, (C) EMPTY BARGES SPECIFICALLY DESIGNED FOR CARRIAGE ABOARD A VESSEL, AND (D) ANY EMPTY INSTRUMENT FOR INTERNATIONAL TRAFFIC EXEMPTED FROM APPLICATION OF THE CUSTOMS LAWS OF THE UNITED STATES BY THE SECRETARY OF THE TREASURY PURSUANT TO THE PROVISIONS OF SECTION 322(A), TARIFF ACT OF 1930 (19 USC 1322 (A)) IF THE ARTICLES DESCRIBED IN CLAUSES (A) THROUGH (D) ARE OWNED OR LEASED BY THE OWNER OR OPERATOR OF THE

TRANSPORTING VESSEL AND ARE TRANSPORTED FOR HIS USE IN HANDLING HIS CARGO IN FOREIGN TRADE; AND (E) STEVEDORING EQUIPMENT AND MATERIAL, IF SUCH EQUIPMENT AND MATERIAL IS OWNED OR LEASED BY THE OWNER OR OPERATOR OF THE TRANSPORTING VESSEL, OR IS OWNED OR LEASED BY THE STEVEDORING COMPANY CONTRACTING FOR THE LOADING OR UNLOADING

OF THAT VESSEL, AND IS TRANSPORTED WITHOUT CHARGE FOR USE IN THE HANDLING OF CARGO IN FOREIGN TRADE.

THE EMBASSY IS PLEASED TO INFORM THE DEPARTMENT OF STATE THAT (COUNTRY) LEGISLATION PLACES NO RESTRICTIONS ON THE CARRIAGE OF ANY OF THE ITEMS REFERRED TO IN PL90-474 BY VESSELS OF THE UNITED STATES BETWEEN (COUNTRY) PORTS. THE GOVERNMENT OF (COUNTRY) THEREFORE BELIEVES THAT CONDITIONS OF RECIPROCITY AS REQUIRED BY PUBLIC LAW 90-474 HAVE BEEN FULFILLED IN THE CASE OF (COUNTRY) AND THAT (COUNTRY) VESSELS SHOULD BE PERMITTED TO ENJOY THE PRIVILEGE OF TRANSPORTING THE REFERENCED ARTICLES BETWEEN PORTS OF THE UNITED STATES. KISSINGER

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